

(3) Solicit their advice and participation as appropriate.

Subpart 42.7—Indirect Cost Rates

42.700 Scope of subpart.

This subpart prescribes policies and procedures for establishing (a) billing rates and (b) final indirect cost rates.

42.701 Definitions.

Billing rate means an indirect cost rate (a) established temporarily for interim reimbursement of incurred indirect costs and (b) adjusted as necessary pending establishment of final indirect cost rates.

Business unit (see 31.001).

Final indirect cost rate means the indirect cost rate established and agreed upon by the Government and the contractor as not subject to change. It is usually established after the close of the contractor's fiscal year (unless the parties decide upon a different period) to which it applies. In the case of cost-reimbursement research and development contracts with educational institutions, it may be predetermined; that is, established for a future period on the basis of cost experience with similar contracts, together with supporting data.

Indirect cost (see 31.001 and 31.203).

Indirect cost rate means the percentage or dollar factor that expresses the ratio of indirect expense incurred in a given period to direct labor cost, manufacturing cost, or another appropriate base for the same period.

[48 FR 42370, Sept. 19, 1983, as amended at 59 FR 11387, Mar. 10, 1994]

42.702 Purpose.

(a) Establishing final indirect cost rates under this subpart provides—

- (1) Uniformity of approach with a contractor when more than one contract or agency is involved;
- (2) Economy of administration; and
- (3) Timely settlement under cost-reimbursement contracts.

(b) Establishing billing rates provides a method for interim reimbursement of indirect costs at estimated rates subject to adjustment during contract performance and at the time the final indirect cost rates are established.

42.703 General.

42.703-1 Policy.

(a) A single agency (see 42.705-1(a)) shall be responsible for establishing indirect cost rates for each business unit. These rates shall be binding on all agencies and their contracting offices, unless otherwise specifically prohibited by statute.

(b) Billing rates and final indirect cost rates shall be used in reimbursing indirect costs under cost-reimbursement contracts and in determining progress payments under fixed-price contracts.

(c) Contracting officers shall—

(1) Unless the quick-closeout procedure in 42.708 is used, use final indirect cost rates of a business unit for a given period, which shall be binding for all the cost-reimbursement contracts of the business unit for that period, subject to any specific limitation in a contract or advance agreement (when contracts of more than one agency are involved, see 42.101(c)); and

(2) To ensure compliance with 10 U.S.C. 2324(a) and 41 U.S.C. 256(a), use established final indirect cost rates in negotiating the final price of fixed-price incentive and fixed-price redeterminable contracts and in other situations requiring that indirect costs be settled before contract prices are established.

[48 FR 42370, Sept. 19, 1983, as amended at 60 FR 42661, Aug. 16, 1995. Redesignated at 60 FR 42664, Aug. 16, 1995]

42.703-2 Certificate of indirect costs.

(a) *General.* In accordance with 10 U.S.C. 2324(h) and 41 U.S.C. 256(h), a proposal shall not be accepted and no agreement shall be made to establish billing rates or final indirect cost rates unless the costs have been certified by the contractor.

(b) *Waiver of certification.* (1) The agency head, or designee, may waive the certification requirement when—

(i) It is determined to be in the interest of the United States; and

(ii) The reasons for the determination are put in writing and made available to the public.

(2) A waiver may be appropriate for a contract with—